and next-of-kin of the deceased and sought a declaration accordingly and claimed that the grant of letters of administration in favour of the plaintiffs be revoked.

At the trial the plaintiffs withdrew their claim for a declaration that they were the lawful cousins and next-of-kin of the deceased on the ground that it was redundant and unnecessary. The stand which they took was that they had been accepted by the registrar on their sworn evidence on affidavit as the lawful cousins and next-of-kin of the deceased and to whom in consequence a grant of letters of administration was regularly and properly made and it was for the defendants to attack it.

It was the contention of the plaintiffs that as the defendants had no interest in the estate and were not claiming to be the next-of-kin the grant was made to them *per incuriam* and should be revoked. In any event the plaintiffs asserted that the onus or burden was on the defendants to show that the grant to them should not be revoked on the principle that where letters of administration have been regularly obtained the person in possession of them is not bound to propound his interest till the party calling it in question has established his own interest, see *Dabbs* v. *Chisman,*[1] and that the defendants should have been called on to discharge the onus of proving their interest and disproving the plaintiffs' interest.

The trial judge failed to give any ruling on these questions and after hearing argument on both sides on these matters proceeded summarily to revoke both grants. No opportunity was given to the plaintiffs to be heard further on the matter or to call evidence or to propound their interest should it become necessary.

It is from this decision that the plaintiffs now appeal.

It is, perhaps, unfortunate that the trial judge failed to appreciate the position for this is what he said:—

"There were therefore two clear issues of fact to be decided: first, whether the plaintiffs were the next-of-kin of the deceased; and secondly, whether the deceased died leaving no next-of-kin and no creditors. It was to decide these questions of fact that the court ordered this matter to proceed as an action. And at the trial of the action, it was incumbent upon the parties to prove to the satisfaction of the court what they alleged in their pleadings. The plaintiffs had to prove that they were the lawful cousins and next-of-kin of the deceased as claimed in their statement of claim. As they called no evidence at the trial, they failed to do this and the grant of letters of administration made to them was therefore revoked. And the defendants by calling no evidence at the trial failed to prove that the deceased died leaving no next-of-kin and no creditors. Accordingly the grant of letters of administration made to them was also revoked."

The trial judge appears to have misinterpreted the submission made on behalf of the plaintiffs on the burden of proof as indicating that they were not calling any witnesses as this question would only arise after the trial judge had ruled as to which party should first undertake the discharge of the burden of proof. We were informed by counsel for the plaintiffs that he had in fact suppoenaed witnesses and proposed to call evidence.

On the hearing of the appeal counsel for the defendants again reiterated that they had no interest whatever in the estate of the deceased and were not concerned further in any way with the grant of letters of administration to them. They have lodged no appeal against the decision of the trial judge revoking their grant.

The position therefore is this. Now that their grant has been revoked and they are neither next-of-kin nor do they have any interest in the estate of the deceased the defendants are in the position of strangers to the estate and in consequence have no *locus standi* and cannot now be heard to revoke the plaintiffs' grant which in our view was regularly and properly made by the registrar.

In these circumstances it would, in our view, be pointless and indeed a waste of time and futile to prolong these proceedings by sending them back for further hearing.

The appeal must be allowed and there will be an order that the decision of the trial judge revoking the grant of letters of administration to the plaintiffs be set aside and the grant to them restored. The plaintiffs are entitled to their costs out of the estate but there will be no order as to costs in respect of the defendants.

Appeal allowed.

Solicitors: *Oehlers & Choa; Mallal & Namazie.*

WONG KUE v. PUBLIC PROSECUTOR

[A.Cr.J. (Pawan Ahmad J.) May 31, 1967]

[Seremban — Criminal Appeal No. 30 of 1966]

Criminal Law and Procedure — Witness — Interview — Reasonable time.

The defence has every right to interview police witnesses offered to the defence and the defence should be given a reasonable time for this purpose. A period of 15 minutes to interview six witnesses as in this case, is certainly not reasonable especially when a request for more time was made at the end of the period. Failure to give a reasonable time for the defence to interview these witnesses amounts to a gross injustice.

MAGISTRATE'S CRIMINAL APPEAL.

Edgar Joseph Jr. for the appellant.

Abu Talib bin Othman (Deputy Public Prosecutor) for the respondent.

Pawan Ahmad J.: The appellant was charged in the magistrates' court, Seremban for committing an offence under section 4(1)(c) of

the Common Gaming House Ordinance No. 26 of 1953.

At the close of the prosecution case the counsel for the prosecution suddenly offered six police witnesses to the defence. On being called to make a defence the counsel for the defendant asked for statements of these witnesses or for time to interview them. The application for copies of the statements of these witnesses was refused but the counsel for defence was given 15 minutes to interview the witnesses offered to the defence.

At the end of the 15 minutes the counsel for the defence requested the court for more time to interview the said witnesses but this request was rejected. The appellant was then put to his election and he decided to remain silent. The learned magistrate thereupon found him guilty and convicted him and sentenced him to pay a fine of $1,000 or to a term of six months' imprisonment.

The appellant has appealed on a number of grounds against his conviction and sentence but I can only find one ground which has any substance at all. This ground is in respect of the failure of the learned magistrate to grant the defence more time to interview the six police witnesses offered to the defence. In the present case the defence had every right to interview the witnesses offered to the defence and the defence should be given a reasonable time for this purpose. A period of 15 minutes in this case, in my view, is certainly not reasonable especially when a request for more time was made at the end of the period. Failure to give a reasonable time for the defence to interview these witnesses, to say the least, amounts to a gross injustice and I, therefore, allow the appeal by quashing the conviction and sentence and by ordering a re-trial before another magistrate.

Appeal allowed. Re-trial ordered.

Solicitors: *Joseph & Son.*

INDUSTRIAL ARBITRATION TRIBUNAL v. CARGO HANDLING CORPORATION LTD.

[F.C. (Barakbah L.P., Azmi C.J. (Malaya) and Ong Hock Thye F.J.) June 23, 1967]

[K.L. — Federal Court Civil Appeal No. X.52 of 1966]

Practice and Procedure — Parties — Whether Industrial Arbitration Tribunal has locus standi to appeal.

The Industrial Arbitration Tribunal has no corporate personality and, therefore, no *locus standi*, as such to be appellants.

[**Editorial Note:** This was an "appeal" against the order of prohibition made by Gill J. — see [1966] 2 M.L.J. 278.]

Case referred to:—

(1) *National Association of Local Government Officers* v. *Bolton Corporation* [1943] A.C. 166; earliest proceedings reported at [1941] 1 K.B. 584 & [1941] 2 K.B. 405.

FEDERAL COURT.

Au Ah Wah (Treasury Solicitor) for the appellant.

S. C. Tan (Miss) for the respondent.

Ong Hock Thye F.J.: This was an appeal by the Industrial Arbitration Tribunal against an order of prohibition made by Gill J. on June 17, 1966, upon the application of the respondent employers abovenamed, prohibiting the tribunal from further proceeding in the arbitration of a trade dispute between the respondents on the one part and "A.T. Arasu and 7 others" on the other.

Upon a preliminary objection raised by counsel for the respondents we dismissed this appeal on the simple ground that the tribunal has no corporate personality and, therefore, no *locus standi*, as such, to be appellants. The tribunal is clearly not on the same footing as for instance, the Ministry of Health in the United Kingdom, which is an authorised government department for the purpose of suing and being sued: see 7 *Halsbury* (3rd Ed.) p. 409.

We are not clear who was aggrieved by the order of prohibition or who it was that moved the learned Treasury Solicitor to lodge this appeal. It does not appear that the workmen had done so. Reference to the *Bolton Corporation* (1) case at its various stages should have averted the error into which the learned Treasury Solicitor had fallen.

Barakbah L.P. and **Azmi C.J. (Malaya)** concurred.

Appeal dismissed.

Solicitors: *Skrine & Co.*